

Plant Protection Amendment Regulation (No. 1) 2015

Explanatory Notes for SL 2015 No. 5

made under the

Plant Protection Act 1989

General Outline

Short title

Plant Protection Amendment Regulation (No. 1) 2015

Authorising law

Sections 4, 11, 12 and 35 of the *Plant Protection Act 1989* (the Act).

Policy objectives and the reasons for them

The purpose of this subordinate legislation is to, for the purposes of the Act:

- Prescribe *Cucumber green mottle mosaic virus* (CGMMV) as a pest;
- Declare CGMMV a notifiable pest; and
- Declare the whole of Queensland a pest quarantine area.

Prescribing CGMMV as a pest will enable the Department of Agriculture and Fisheries through Biosecurity Queensland to employ its powers under the Act to conduct surveillance and take action if the pest is detected. Declaring the pest to be a notifiable pest will also impose obligations on landowners to report the presence of the pest within a specified time and also enable the Department to mount a timely biosecurity response. Declaring Queensland to be a pest quarantine area for the pest is aimed at preventing the introduction and/or spread of CGMMV into and around Queensland.

CGMMV belongs to the virus Genus *Tobamovirus*. It is a seed-borne virus which has been found to be responsible for devastating losses of cucurbitaceous crops throughout Europe and Asia. It has also been detected in the United States in California.

CGMMV is commonly transmitted when uninfected plants come into contact with infected plant debris or contaminated machinery or equipment. It may also be transmitted by contaminated soil and water, infected seed, pollen, transplants, rootstock, contaminated

packing material and chewing insects such as beetles. Contaminated seeds are probably the major means of movement of this virus to new countries and continents.

Depending on the strain, the virus has the potential to infect cucurbit crops such as cucumber, melons, zucchini, squash and gourds. CGMMV infects all plant tissues of a plant and there is no known cure. As the disease progresses, plants wilt and all or part of the plant die. Overall, CGMMV is very hard to eradicate once it is found in an area.

On 3 July 2014, CGMMV was detected on a single leaf sample of watermelon collected from a commercial farm in Katherine, Northern Territory. The Northern Territory government declared three quarantine zones in areas around Katherine and Darwin, restricting the movement of cucurbits from these regions. Ten infected premises have since been found in the Northern Territory. However, no infected premises have been found outside of the quarantine zones or the Northern Territory.

The national Consultative Committee for Emergency Plant Pests has determined that CGMMV is an emergency plant pest but further information will be required before a determination is made as to whether it is technically or economically feasible to eradicate. Victoria and South Australia have responded by issuing area freedom certificates for their States based on passive surveillance with South Australia also implementing measures such as import controls, registration of importers, inspection of imported consignments and regulated State borders put in place.

CGMMV is currently declared by Ministerial Notices as a pest and the whole of Queensland as a pest quarantine area. These Notices were made on 25 November 2014 and remain in force until the matters are prescribed in a regulation or the end of three months.

The Notices were made to respond quickly to the threat of CGMMV by providing the mechanism to enable surveillance to be conducted as there were no powers under the Act to do so unless it was declared a pest for the purposes of the Act. Although the Notices have allowed surveillance and restricted movement, additional powers and obligations are required such as prescribing CGMMV as a notifiable pest which was not possible by a Ministerial declaration.

The surveillance that has been conducted has indicated that CGMMV is not currently present in Queensland. However, continuation of movement restrictions for CGMMV under regulation to ensure that the disease is not introduced into Queensland from the Northern Territory and an owner's obligation to allow surveillance will be required.

Queensland is a major producer of watermelons, rockmelons and cantaloupe with an estimated gross value of production of \$77 million in 2014. One third of Queensland's watermelon production occurs in Bowen and the Burdekin, with the remainder in the Chinchilla, Darling Downs, Banana and Gatton areas. Additionally, zucchini and button squash are worth approximately \$47 million and pumpkin \$22 million.

Queensland is an exporter of melon and cucumber crops so there are a limited number of plants and fruit coming into Queensland for planting or sale but fruit such as melons, zucchini and cucumbers may be transported through Queensland from the Northern Territory en route to interstate destinations. Imported seed which is brought into Queensland for planting also poses a risk of entry of the disease.

The best management and control for this virus is to prevent its introduction into the State by establishing Queensland as a pest quarantine area to assist in early detection, control and where possible eradication of the pest. The subordinate legislation will provide the powers to allow inspectors to enter land and undertake surveillance, treatment and eradication where possible.

Achievement of policy objectives

The subordinate legislation will achieve its objectives by prescribing CGMMV as a pest and declaring the whole of Queensland as a pest quarantine area to prevent the introduction and/or spread of CGMMV into and around Queensland. The subordinate legislation will also declare CGMMV as a notifiable pest which will impose an obligation on land owners who become aware of the existence of the pest on their land to notify a Biosecurity Queensland inspector within 24 hours. Timely responses are essential to prevent any potential spread of the pest and target removal measures for its eradication.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the main objects of the Act as it will prevent, control or remove pest infestation of plants in Queensland by prescribing CGMMV as a pest and declaring it to be notifiable, as well as declaring Queensland to be a pest quarantine area for CGMMV.

Inconsistency with policy objectives of other legislation

The subordinate legislation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The subordinate legislation will have an immediate direct benefit to the community generally as it will reduce the risk of potential introduction and spread of CGMMV which can potentially infect cucurbit crops. The subordinate legislation will provide protection to producers of cucurbit crops, such as cucumber, melons, zucchini, squash and gourds from the possibility of having a serious impact on their crops.

There will be some cost to the State Government through increased surveillance and enforcement of the introduction and movement of some risk items without an inspector's approval.

Consistency with fundamental legislative principles

The subordinate legislation is generally consistent with fundamental legislative principles (FLPs) but may give rise to concerns in regard to an FLP contained in section 4 of the *Legislative Standards Act 1992* (LSA). The potential breach of an FLP is addressed below.

Legislation should have sufficient regard to rights and liberties of individuals [LSA s4(3)(e)]

New section 172B being inserted into the *Plant Protection Regulation 2002* by the subordinate legislation is a potential FLP breach as it requires an owner of land to allow an

inspector to carry out surveillance on the owner's land. This approach is considered to be adequately justified on the basis that the entry onto land is warranted by the seriousness of the potential risks associated with the disease affecting the agricultural industry. The entry to land is also limited for the purposes of surveillance, to look for and monitor the spread of cucumber green mottle mosaic. Further protection of the rights of individuals is provided by not including a dwelling house within the scope of the power to undertake surveillance.

Consultation

Key industry stakeholders including the Australian Melon Association, Nursery and Garden Industry Queensland, AUSVEG and Growcom have all been consulted and officers of each organisation have indicated their support of the regulatory measures to prevent the introduction of CGMMV into Queensland, facilitate surveillance and provide for the control and eradication of CGMMV should it be introduced. They support Biosecurity Queensland continuing to conduct surveillance and implement measures to control the entry of risk items that could introduce CGMMV into the state, to allow for the quarantining of properties where the disease has been confirmed to be present and the treatment, destruction and disposal of infected plant material including fruit.

The Nursery and Garden Industry Australia and AUSVEG are both represented on the Consultative Committee on Emergency Plant Pests (CCEPP) and the National Management Group (NMG), the bodies that oversee the national response to the CGMMV outbreak. The actions to contain the pest (through property quarantines, domestic movement controls on risk materials and destruction of infected plant material) and to undertake a national surveillance program to delimit the extent of the incursion have been endorsed by both CCEPP and NMG.

The Office of Best Practice Regulation (OBPR) within the Queensland Competition Authority has been consulted on the need to prepare a Regulatory Impact Statement (RIS) for the subordinate legislation. The OBPR has advised that the proposal aligns with exclusion category (j) as the potential impact on horticultural production requires immediate action to prevent the introduction of, or curb the spread of, CGMMV into Queensland and that it is excluded from further analysis under the Treasurer's guidelines.